

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 13-00440-01-CR-W-DW
)	
RONALD F. WHITE, JR.,)	
)	
Defendant.)	

MOTION IN LIMINE

Comes now the defendant, Ronald F. White, Jr., by and through counsel, Anita L. Burns, Assistant Federal Public Defender, and respectfully moves this Court for an order prohibiting the government from mentioning or introducing through testimony or evidence that a Smith and Wesson Model 66, .357 revolver, a Romarm/Cugir, Model Draco-C, 7.62x39 handgun, a Bushmaster, Model XM-15-E2S, .223 rifle, and a Stag Arms, Model Stag-15(IL), 5.56 rifle were recovered from a black duffel bag located in the residence of defendant's father and step-mother. The grounds for defendant's motion are as follows:

1. Defendant was charged by Indictment with one count of possession of an unregistered firearm in violation of 26 U.S.C. §§5841, 581(d) and 5871 and with one count of felon in possession of a firearm in violation of 18 U.S.C. §§922(g)(1) and 924(a)(2). Count II alleged the defendant possessed a Smith and Wesson Model 66, .357 revolver, a Romarm/Cugir, Model Draco-C, 7.62x39 handgun, a Bushmaster, Model XM-15-E2S, .223 rifle, and a Stag Arms, Model Stag-15(IL), 5.56 rifle.

2. On May 2, 2014, defendant filed a Motion to Dismiss Count II of the indictment on the basis that he did not have a prior felony conviction as required by 18 U.S.C. §922(g)(1). On June 9, 2014, the government filed a Motion to Dismiss Count II and an Order was entered

dismissing Count II.

3. Defendant anticipates the government will seek to introduce testimony from officers who executed a search warrant at the home of defendant's father (Ronald F. White, Sr.) and step-mother that these firearms were located inside a black duffel bag on the shelf of the southwest bedroom closet. Defendant's parents were interviewed by the officers and advised defendant occasionally came by or stayed at the residence. According to the discovery, the parents further advised if the defendant he stayed overnight, he used the southwest bedroom. Also located inside the duffel bag was an Amtrak ticket receipt and a credit card receipt in the name of Ronald White.

4. Testimony about and evidence concerning these four firearms would be irrelevant and immaterial to defendant's case in that he is not charged with any offense involving these firearms. Such testimony and evidence concerning these four firearms is inadmissible under Federal Rules of Evidence 401 and 402.

5. Such testimony and evidence, even if determined to be relevant, is inadmissible under Federal Rule of Evidence 403 as any probative value is substantially outweighed by the danger of unfair prejudice in that it is propensity evidence which would be used to prove the character of defendant and to show action in conformity therewith. The risk that the jury will convict because defendant they believe he was in possession of these four firearms or because a bad person deserves punishment is so prejudicial that it outweighs any relevance.

6. Evidence that these four firearms were found in a duffel bag with an Amtrak ticket receipt and a credit card receipt in the name of Ronald White is not admissible under Federal Rule of Evidence 404(b) in that it is propensity evidence which would be used to prove the character of the defendant and to show action in conformity therewith.

7. Any ordinary objection made by defendant during the course of trial to the presentation of such testimony, even if sustained with proper instructions to the jury, could not

remove the prejudicial effect of such evidence and testimony once it had been presented to the jury.

WHEREFORE, defendant respectfully requests this Court enter an order in limine prohibiting the government from mentioning or introducing testimony or evidence that a Smith and Wesson Model 66, .357 revolver, a Romarm/Cugir, Model Draco-C, 7.62x39 handgun, a Bushmaster, Model XM-15-E2S, .223 rifle, and a Stag Arms, Model Stag-15(IL), 5.56 rifle were recovered from a black duffel bag located in the residence of defendant's father and step-mother.

Respectfully submitted,

/s/ Anita L. Burns
ANITA L. BURNS
Assistant Federal Public Defender
818 Grand, Suite 300
Kansas City, MO 64106
(816) 471-8282
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

In accordance with Rule 49(a), (b) and (d), Fed. R. Crim. P., and Rule 5(b), Fed. R. Civ. P., it is hereby CERTIFIED that one copy of the foregoing motion was electronically filed and emailed to Joseph Marquez, Assistant United States Attorney, 400 E. 9th St., 5th Floor, Kansas City, Missouri 64106, this 12th day of June, 2014.

/s/ Anita L. Burns
Anita L. Burns